

By: Jon J. Auritt, Esquire  
Attorney ID No. 10273  
LAW OFFICES OF JON J. AURITT  
130 E. State Street  
Media, Pennsylvania 19063  
(610) 565-7530  
(610) 565-9503 (fax)

Attorney for Plaintiff,  
Michael Kopec

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
PENNSYLVANIA

MICHAEL KOPEC	:	
Plaintiff,	:	No. 02-CV-430
	:	
v.	:	
	:	
OFFICER TYRONE TATE,	:	
Defendant	:	

PLAINTFF'S TRIAL MEMORANDUM

Essentially, the legal issues in this case were addressed by the Third Circuit Court of Appeals in Kopec v. Tate, 361 F.3d 772 (2004). That Court held that a police officer commits excessive force under the Fourth Amendment when, under rather benign circumstances, he ignores a suspect's repeated complaints for several minutes that the handcuffs placed on him are much too tight and are severely hurting him. At least, the police officer should have ascertained during this time whether Plaintiff's complaints were legitimate. As a result of the police officer's failure to timely loosen the handcuffs, Plaintiff suffered permanent injury to his right superficial radial nerve.

In addition, applying the analysis from Saucier v. Katz, 533 U.S. 194 (2001) the Court in Kopec also determined that a reasonable police officer should have known that applying excessive force by handcuffing was a Fourth Amendment violation. See also Hope v. Pelzer, 536 U.S. 730 (2002).

Respectfully submitted,

JJA3958  
JON J. AURITT